

**Comments of  
The Association of Flight Attendants - CWA, AFL-CIO  
Submitted June 14, 2004**

Regarding the  
Mandatory Guidelines and Proposed Revisions to  
Mandatory Guidelines for  
Federal Workplace Drug Testing Programs

FR Doc. 04-7985

The Department of Health and Human Services has remained steadfast in its resolve to pair **some** level of creatinine and specific gravity to identify a substituted specimen. Over the past four years, HHS has employed **three** different paired measurements as the criteria for substitution. Each time, HHS claimed that the presenting levels were scientifically accurate and defensible, at least until they were effectively challenged by outside stakeholders. Effective November 1, 2004, voluntary substitution testing will become mandatory for all specimens tested under the Federal Workplace Drug Tests. Those organizations, governments, schools and workplaces that closely align their testing requirements with HHS' federal workplace drug testing requirements may soon follow suit in mandating substitution testing.

In an equally persistent and dedicated fashion, the Association of Flight Attendants-CWA, the world's largest union of flight attendants, has effectively documented its concerns and problems with all of HHS' varying substitution criteria. Most notably, AFA has provided HHS with clinical documentation demonstrating that:

- Healthy flight attendants naturally produced urine whose paired creatinine and specific gravity fell **below the current voluntary HHS cut off levels.**
- Flight Attendants, participating in an unrelated AFA study, produced urine whose paired creatinine and specific gravity **fell below the currently proposed mandatory cut off levels. (We reported values of 1.9 creatinine and 1.001 sg)**
- Creatinine testing results can vary significantly between HHS certified labs. AFA has submitted documentation to HHS demonstrating a **variation** in creatinine measurements for the same urine specimen at two HHS certified labs by as much as **2.0 mg/dL.**
- Creatinine testing results can vary significantly at the same HHS certified lab for the same urine specimen. AFA submitted a split of the same urine sample to the same certified lab with a documented **creatinine variation of 1.8 mg/dL.**

Before HHS prematurely mandates substitution testing, AFA respectfully challenges the Department to:

- Study alternatives to the existing substitution criteria as recommended by experts during open comment periods, by the Drug /Alcohol Testing Industry (Oct. 2003 letter to Robert Stephenson), and by presenters and attendees of the February 2003 colloquium on “Specimen Validity Testing” in Tampa, Florida.
- Mandate an automatic drug test for any sample that is confirmed substituted so that an employee is able to prove his or her innocence on the central issue of whether or not the employee has used drugs rather than whether the employee naturally produces ultra-dilute urine. The tests must be done by the highest quality test available (GC/MS) and the employee must have the right to an MRO review of this result and a split specimen sample test of the specimen for drugs.
- Establish a higher quality confirmatory substitution test with different chemical properties rather than a repeat of the same initial test.
- Publish and evaluate the split testing results for urine samples collected as part of the “DOT Water Load Study.”
- Study the variation in testing results for any substitution criteria within and between labs.
- Identify and provide a readily available and cost effective remedy to innocent employees who have already been adversely affected by the existing substitution criteria and who may be adversely impacted by any future substitution criteria.